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August 31, 2011

Nancy Stoner
Acting Assistant Administrator
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Environmental Protection Agency
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VIA: United States Post Office and E-mail to stoner.nancy@epa.gov

My name is Preston Thompson from the Ho-Chunk Nation (HCN). I'm a member of the HCN Traditional Court. I, Tom Hopinkah, also a member of the HCN Traditional Court, Ritchie Brown and other members of the court and elders in the HCN are interested in the protection of the Eagle Rock site. This is a sacred site to the HCN and other tribes. Please see the attached resolution from the National Congress of American Indians Resolution #ABQ-10-078 Calling for Federal and State Action to Guarantee the Protection and Preservation of Eagle Rock from the Consequences of Mining Operations by Kennecott Eagle Minerals.

We believe the National Historic Preservation Act Section 106 Assessment for the Kennecott Eagle Mine Project Underground Injection Control Permit completed by Region 5 EPA was not in compliance with the Section 106 process as there are several glaring issues ignored in this assessment.

The first area of noncompliance is that the EPA invited the Lake Superior Band of Chippewa to consult within the meaning of Section 106. However, the treaty of 1837 was signed by all recognized Chippewa tribes. These tribes were later separated into two groups of Lake Superior and Mississippi groups. The request for consultation should have been made to all Chippewa nations and not just the Lake Superior group. EPA treated this step as an intra-tribal project and not an inter-tribal consultation process.

Consultation concerning Eagle Rock for the Section 106 Assessment was with tribes that were in the area in the recent past but failed to address indigenous peoples that resided in the Eagle rock area before the Chippewa occupied this area. The Section 106 process is

seriously flawed by not addressing those peoples who resided in the Eagle Rock area prior to the Chippewa and nothing in the report addressed their cultural and spiritual attachment to this site.

Consultation should include learned tribal members who are the leaders of our ancient societies, their knowledge spans the time prior to Christianity and Christopher Columbus and they are acknowledged for their continuing effort in the maintenances of our traditional culture and history. It is this understanding that makes us who we are.

There is no other place where tribal people or other interested parties can come and obtain cultural information and guidance grounded in traditional, cultural and moral values.

Further, the National Historic Preservation act was not adequately administered by the State of Michigan under the wetland permitting process for the Eagle Mine, as the permitting agency determined that the site could not be sacred or have spiritual significance because a place of worship must be a building. This interpretation would allow most sites of religious or cultural significance of American Indians to be ignored and is in complete conflict with the definition of historic properties under NHPA.

The mere act of the permitting agency concluding that a site is not a sacred site with religious or cultural significance unless it has a building on it is clear and convincing proof that the State of Michigan did not adequately administer Section 106 of NHPA under the delegation to it by the EPA of the wetlands permitting authority. We ask for immediate review of the State of Michigan's compliance with the programmatic agreement between the EPA and the State of Michigan delegating the implementation of Section 106 to the State of Michigan to determine whether the programmatic agreement has been followed and to further determine whether the programmatic agreement should be immediately terminated because of the State of Michigan's egregious actions in implementing Section 106 in the wetland permitting for Eagle Mine.

We further request to be provided with a copy of the programmatic agreement under Section 106 entered into between the EPA and the State of Michigan when EPA delegated to the State of Michigan wetland permitting authority.

Finally, because of the failure of the State of Michigan to recognize Eagle Rock as a sacred site because it did not have a building on it, the State of Michigan did not comply with Section 106 requirements to "develop or evaluate alternatives or modifications to the undertaking that could avoid, minimize or mitigate adverse effects on the historic property", thereby denying access by tribes to the traditional use of this sacred place.

Failure to take into account the effects of an undertaking on historic properties according to Section 106 and 36 CFR Part 800 can result in the Council's formal notification of foreclosure. Foreclosure is a term that implies a Federal agency has initiated an action before providing the Council an opportunity, in consultation with the SHPO and other interested parties, to comment on the undertaking.

It becomes the lead agencies responsibility to insure the consultation process take into account the executive orders, and regulations:

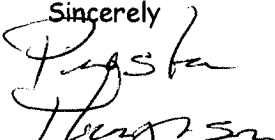
1. National Historic Preservation Act.
2. National Environmental Policy Act.
3. American Indian Religious Freedom Act.
4. Native American Graves Protection and Repatriation Act.
5. Executive Order 13007--Indian Sacred Sites.
6. Executive Order 13175--Consultation and Coordination with Indian Tribal Governments.
7. Executive Order 12898--Executive Order on Environmental Justice and the implementing regulations for these authorities.

Kennecott has announced that it intends to begin blasting at Eagle Mine on September 14, 2011.


We wish to see active participation and cooperation between the EPA and tribal members to address discrepancies and insufficiencies in the Section 106 assessment for the protection of this religious and cultural property, Eagle Rock.

Yellow Dog Plains' remote location has protected the Eagle Rock Site for several thousand years. Now it is your office's duty to comply with the implementation of Section 106 of the National Historic Preservation Act in regard to Eagle Rock.

Sincerely



Preston Thompson



Tom Hopinkah



Ritchie Brown

CC: Acting Director, United States Protection Agency, Region 5
Keweenaw Bay Indian Community
Lac Vieux Desert Band of Chippewa:
Grand Traverse Band of Saginaw Chippewa Indian Tribe
Ottawa and Chippewa Indians
Sault Ste. Marie Tribe of Chippewa
Bay Mills Indian Community
Bois Forte Band of Chippewas
Fond du Lac Ojibwe
Grand Portage Band of the Minnesota Chippewa Tribe
Red Lake Band of Chippewa Indians
Leech Lake Band of Ojibwe
Mille Lacs Band of Ojibwe
White Earth Ojibwe
Bad River Band of Lake Superior Chippewa
Red Cliff Band of Lake Superior Chippewa

St. Croix Chippewa Indians
Lac Court Oreilles Band of Lake Superior Chippewa
Sokaogan Mole Lake Community
Lac du Flambeau Band of Lake Superior Chippewa
Ho-Chunk Nation
Northern Cheyenne Tribe



NATIONAL CONGRESS OF AMERICAN INDIANS

The National Congress of American Indians Resolution #ABQ-10-078

TITLE: Calling for Federal and State Action to Guarantee the Protection and Preservation of Eagle Rock from the Consequences of Mining Operations by Kennecott Eagle Minerals

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EXECUTIVE DIRECTOR
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Tlingit

NCAI HEADQUARTERS

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WHEREAS, we, the members of the National Congress of American Indians of the United States, invoking the divine blessing of the Creator upon our efforts and purposes, in order to preserve for ourselves and our descendants the inherent sovereign rights of our Indian nations, rights secured under Indian treaties and agreements with the United States, and all other rights and benefits to which we are entitled under the laws and Constitution of the United States, to enlighten the public toward a better understanding of the Indian people, to preserve Indian cultural values, and otherwise promote the health, safety and welfare of the Indian people, do hereby establish and submit the following resolution; and

WHEREAS, the National Congress of American Indians (NCAI) was established in 1944 and is the oldest and largest national organization of American Indian and Alaska Native tribal governments; and

WHEREAS, the Yellow Dog Plains is a beautiful, remote, near pristine wilderness in the northern part of Marquette County, Michigan; and

WHEREAS, Eagle Rock, aka "The Home of the White Wolf," is located in the Yellow Dog Plains; and

WHEREAS, Eagle Rock has been linked to ancient ceremonial sites in Wisconsin and Montana by local tribal history and more recently by exhaustive research and on-site surveys; and

WHEREAS, Eagle Rock is considered a sacred place by various Native American communities in general, and more specifically, the Keweenaw Bay Indian Community in whose territory the sacred place exists; and

WHEREAS, Eagle Rock has existed and been maintained quietly, privately and secretly by the various Native American communities in order to protect it and preserve it from intrusion and desecration by curious outsiders; and

WHEREAS, the mining operation of Kennecott Eagle Minerals (a subsidiary of the international mining conglomerate, Rio Tinto in the Yellow Dog Plains of Marquette County, Michigan) has intruded into this sacred area, destroying the serenity of the place and drawing attention to its existence; and

WHEREAS, the presence of the aforementioned mining operation has adversely affected access to and has limited traditional use of the sacred place; and

WHEREAS, intrusion by the Kennecott Eagle Minerals mining operation to the Eagle Rock area has subjected the sacred place to the potential for desecration and looting of ancient artifacts and historical markers.

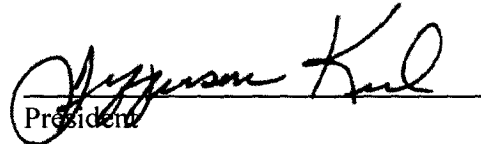
NOW THEREFORE BE IT RESOLVED, that the NCAI calls on legislative and regulatory bodies of the State of Michigan and the United States to take prompt action to guarantee the protection and preservation of the integrity and intrinsic value of the Native American sacred ceremonial place known as Eagle Rock; and

BE IT FURTHER RESOLVED, that requirements be imposed on Kennecott Eagle Minerals to mitigate the negative aesthetic impact of the proximity of the mining operation to Eagle Rock and that members of the various Native American communities be provided unfettered access for traditional use of the sacred ceremonial place; and

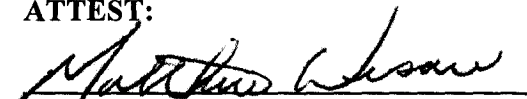
BE IT FINALLY RESOLVED, that this Resolution shall be the policy of NCAI until it is withdrawn or modified by subsequent resolution.

CERTIFICATION

The foregoing resolution was adopted by the General Assembly at the 2010 Annual Convention of the National Congress of American Indians, held at the Albuquerque Convention Center in Albuquerque, NM on November 14-19, 2010, with a quorum present.


President

ATTEST:


Recording Secretary